

Office of the Secretary of Defense

§ 112.4

entities in the Department of Defense (hereafter referred to collectively as the “DoD Components”).

(b) This part does not apply to:

(1) Indebtedness of a member of the Military Services to the Federal Government.

(2) Processing of indebtedness claims to enforce judgments against military members for alimony or child support.

(3) Claims by State or municipal governments under the processing guidelines for complaints, including tax collection actions.

§ 112.3 Definitions.

(a) *Absence.* A member’s lack of an “appearance,” at any stage of the judicial process, as evidenced by failing to physically attend court proceedings; failing to be represented at court proceedings by counsel of the member’s choosing; or failing to timely respond to pleadings, orders, or motions.

(b) *Court.* A court of competent jurisdiction within any State, territory, or possession of the United States.

(c) *Debt Collector.* An agency or agent engaged in the collection of debts described under 15 U.S.C. 1601 note and 1692–1692o (“Fair Debt Collection Practices Act”).

(d) *Exigencies of Military Duty.* A military assignment or mission-essential duty that, because of its urgency, importance, duration, location, or isolation, necessitates the absence of a member of the Military Services from appearance at a judicial proceeding or prevents the member from being able to respond to a notice of application for an involuntary allotment. Exigency of military duty is normally presumed during periods of war, national emergency, or when the member is deployed.

(e) *Judgment.* A final judgment must be a valid, enforceable order or decree, by a court from which no appeal may be taken, or from which no appeal has been taken within the time allowed, or from which an appeal has been taken and finally decided. The judgment must award a sum certain amount and specify that the amount is to be paid by an individual who, at the time of application for the involuntary allotment, is a member of the Military Services.

(f) *Just Financial Obligation.* A legal debt acknowledged by the military member in which there is no reasonable dispute as to the facts or the law; or one reduced to judgment that conforms to Sections 501–591 of title 50 Appendix, United States Code (The Servicemembers Civil Relief Act, as amended), if applicable.

(g) *Member of the Military Services.* For the purposes of this part, any member of the Regular Army, Air Force, Navy, Marine Corps, or Coast Guard, and any member of a Reserve component of the Army, Air Force, Navy, Marine Corps, or Coast Guard (including the Army National Guard of the United States and the Air National Guard of the United States) on active duty pursuant to a call or order for a period in excess of 180 days at the time an application for involuntary allotment is received by the Director, DFAS, or Commanding Officer, Coast Guard Pay and Personnel Center. The following shall not be considered members:

(1) Retired personnel, including those placed on the temporary or permanent disabled retired list; and

(2) Personnel in a prisoner of war or missing in action status, as determined by the Secretary of the Military Department concerned.

§ 112.4 Policy.

(a) Members of the Military Services are expected to pay their just financial obligations in a proper and timely manner. A Service member’s failure to pay a just financial obligation may result in disciplinary action under the Uniform Code of Military Justice (10 U.S.C. 801–940) or a claim pursuant to Article 139 of the Uniform Code of Military Justice. Except as stated in this section, and in paragraphs (a)(1) and (a)(2) of this section, the DoD Components have no legal authority to require members to pay a private debt or to divert any part of their pay for satisfaction of a private debt.

(1) Legal process instituted in civil courts to enforce judgments against military personnel for the payment of alimony or child support shall be acted on pursuant to 42 U.S.C. 651–665, and